

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 08-CR-288 (SJ)

-against- : U.S. Courthouse

: Brooklyn, New York

THOMAS ARCHER
RUKHSANA RAFIQUE

Defendants : September 8, 2008

- - - - - X 9:30 a.m.

BEFORE:

HONORABLE STERLING JOHNSON, JR.
United States District Judge

APPEARANCES:

For the Government: BENTON J. CAMPBELL, ESQUIRE
United States Attorney
271 Cadman Plaza East
Brooklyn, New York 11201
BY: ANDREW EDWARD GOLDSMITH
Assistant U.S. Attorney

For the Defendant: ALOMAR & ASSOCIATES, PC
Thomas Archer 60-89 Myrtle Avenue
2nd Floor
Ridgewood, New York 11385
BY: KARINA E. ALOMAR

For the Defendant: MILDRED M. WHALEN
Rukhsana Rafique Federal Defenders of New York, Inc.
16 Court Street
Brooklyn, New York 11201-4859

1 Court Reporter: RONALD E. TOLKIN, RMR, CRR
2 Official Court Reporter
3 225 Cadman Plaza East
4 Brooklyn, New York 11201
5 718-613-2647

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7 THE CLERK: U.S.A. versus Thomas Archer and Rukhsana
8 Rafique.

9 Counsel, please state your appearances for the
10 record.

11 MR. GOLDSMITH: Andrew Goldsmith for the government.
12 Good morning, Your Honor.

13 MS. ALOMAR: Good morning, Your Honor.
14 Karina Alomar on behalf of Mr. Archer.

15 MS. WHALEN: Good morning, Your Honor.
16 Mildred Whalen from Federal Defenders of New York
17 for Rukhsana Rafique.

18 THE CLERK: Please raise your right hand.
19 (Interpreter sworn.)

20 Please state your name for the record.

21 THE INTERPRETER: Ravi Kopru.

22 Good morning, Your Honor.

23 THE COURT: Good morning.

24 There are two defendants?

25 MS. WHALEN: Yes, Your Honor.

1 MS. ALOMAR: Yes, Your Honor.

2 THE COURT: What kind of a case is this?

3 MR. GOLDSMITH: It is a visa fraud case, Your Honor.
4 There is one conspiracy count and three substantive counts.

5 THE COURT: What are we doing?

6 MS. WHALEN: Your Honor, we are in the middle of
7 discovery. The prosecution changed from Assistant Valerie
8 Tocci to Mr. Goldsmith.

9 I think there are additional items of discovery,
10 statements that my client allegedly made, that are still
11 outstanding. There has been, I guess, a screw up with a plea
12 agreement. So I need to get another copy of that so that I
13 can also talk to my client about possible plea negotiations.

14 I think both the defense are interested in another
15 30 days before we make a determination about setting a motion
16 schedule or a trial date. I am not sure until we complete the
17 discovery on whether or not there are outstanding statements,
18 at least from my client. I am not sure about Ms. Alomar's
19 client.

20 THE COURT: What kind of statements are they?

21 MR. GOLDSMITH: Your Honor, I wasn't aware of these
22 particular statements until this morning.

23 MS. WHALEN: They are statements that my client
24 made. They are statements made at the time of the arrest with
25 the agents. Ms. Tocci hadn't provided them and I am not sure

1 that Mr. Goldsmith is aware of them.

2 THE COURT: If this case goes to trial how long
3 would it take?

4 MR. GOLDSMITH: I don't have an estimate at this
5 time, Your Honor. As counsel said, Your Honor, we are still
6 working on discovery.

7 MS. WHALEN: Your Honor, I don't know about the
8 government's case. I know that in the complaint it says that
9 the case was triggered by the release -- or somehow a computer
10 identified 100 applications coming from Mr. Archer's law
11 office that were in some way suspicious. We have not seen
12 those 100 applications yet. We have only been given the
13 discovery relating to the indictment. So there is a deal more
14 that we need to do before we are ready for trial.

15 THE COURT: Are we going to trial or will there be a
16 plea?

17 MS. WHALEN: Your Honor, at this point I think it is
18 about 50/50. I need to see the other documents.

19 THE COURT: I will give it to you.

20 What date do you want?

21 MR. GOLDSMITH: Thirty days, Your Honor, would be
22 fine.

23 THE CLERK: October 10th.

24 MS. ALOMAR: That is fine.

25 THE COURT: The time is excluded for negotiations.

1 THE CLERK: At 9:30.

2 THE COURT: I would like to have this matter
3 resolved one way or the other. If there is not going to be a
4 plea we will set a trial date.

5 MR. GOLDSMITH: Yes, Your Honor.

6 THE COURT: How long do you think, counselor, the
7 trial will take? Ms. Whalen.

8 MS. WHALEN: Even if they brought in all of those
9 100 documents I don't think they would go through each one
10 individually. So I would guess, probably, a week or a week
11 and a half. I don't think it is more than that.

12 THE COURT: All right.

13 MR. GOLDSMITH: Thank you, Your Honor.

14 MS. ALOMAR: Thank you, Your Honor.

15 MS. WHALEN: Thank you, Your Honor.

16 (Matter concluded.)
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